

APPENDIX 8.14C

Chula Vista Will Serve Letter

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DEPARTMENT OF ENGINEERING

March 28, 2006
File No. 0790-60-PI001

Duke Energy North America
South Bay Power Plant
900 Bay Blvd.
Chula Vista, CA 91911-1651

Attention: Joe Otahal, Manager Electric Modernization South Bay Power Plant

SUBJECT: SEWER REQUIREMENTS FOR THE PROPOSED SOUTH BAY ENERGY FACILITY

This letter is in response to your request, dated January 19, 2006, for early input on the City's requirements with regards to sewage discharges associated with the proposed South Bay Energy Facility (SBEF). It is our understanding that clarification of these issues will enable you to complete your Application for Certification (AFC) from the California Energy Commission (CEC) for your SBEF, which is being proposed to replace the existing South Bay Power Plant. We have completed our review of the project and the associated issues. Based on our review and our meeting with you, we have developed responses to the questions posed in your letter.

You indicated that there were two plant configurations under consideration: a Dry Cooled Plant and a Wet Cooled Plant. The following responses address the issues associated with both plant configurations.

Q1. Are the current capacity rights under the existing Industrial User Discharge Permit for the South Bay Plant (Permit No. 13-0279) transferable?

R1. Yes they are. Since your company acquired capacity rights to 0.1 mgd (see attached Exhibit 1) for your current operations, you are authorized to generate flows up to that amount from either your existing facility or a new facility without triggering additional fees or infrastructure improvements. A review of your current flow generation indicates that you are already generating approximately that amount with your current operation.

Option A—Dry Cooled Plant:

Q1. Obtain a "will serve" letter that assures a total of 100,000 gallons per day of sewer capacity for the SBEF.

R1. See attached Exhibit 2.

Q2. Verify that sewer capacity entitlement for the existing South Bay Power Plant is transferable to the SBEF, and identify all costs associated with such a transfer.

For written replies, respond to:

- ☐ 276 FOURTH AVENUE / CHULA VISTA, CALIFORNIA 91910-2631 / (619) 691-5021
- ☐ 1800 MAXWELL ROAD / CHULA VISTA, CALIFORNIA 91911-6158 / (619) 691-5021

- R2.** Based on review of the seventh Amendment to Sewage Disposal Agreement of 1960 between the City of San Diego and the City of Chula Vista (approved by Resolution 18677), Resolution 18535 approving an agreement between the City of Chula Vista and National City, and Industrial User Discharge Permit 13-0279, we concur that the sewer capacity entitlement for the existing South Bay Power Plant is transferable to the proposed SBEF. However, the proposed SBEF requires the approval of a new Industrial User Discharge Permit and payment of applicable fees based on the average industrial waste discharge flow and type of discharge. Please see the excerpts below regarding the permit requirements:

Excerpt from City of San Diego's Municipal Code - Chapter 6, Article IV, Section 64.0506 - Transfer of an Industrial Wastewater Discharge Permit or Changed Use

"Industrial Wastewater Discharge Permits shall be issued only for specific use for a specific operation. Any sale, lease, transfer or assignment of the premises or operation for which the permit was issued shall require a new permit to be issued. Any new or changed conditions of operation shall require a new permit to be issued. ("Transfer of an Industrial Wastewater Discharge Permit or Changed Use" added 6-6-1983 by O-15984 N.S.)"

Excerpt from City of Chula Vista's Municipal Code - Chapter 13, Section 13.10.070 - Transfer of an industrial wastewater discharge permit or changed use

"Each industrial wastewater discharge permit shall be issued to a specific permittee for a specific location, specific use and specific operation. Any sale, lease, transfer or assignment of the premises or operation for which the permit was issued shall require notice to the city and city approval, which shall not be unreasonably withheld. If the current operator or, upon sale, lease, transfer or assignment, the new operator changes any condition of operation, an amended permit shall first be applied for and obtained. (Ord. 2466 § 7, 1991)."

- Q3. Identify the physical location and configuration for the SBEF sewer interconnect.**

- R3.** See attached Exhibit 3.

Option B—Wet Cooled Plant:

- Q1.** Verify that an additional 100,000 gallons per day of sewer capacity can be obtained in addition to the 100,000 gallons per day already owned by Duke (for a total of 200,000 gallons per day). Obtain a clear understanding of the process for procuring that additional capacity from the City of Chula Vista or neighboring municipalities.

- R1.** The additional capacity rights required for the Wet Cooled Plant can be obtained either of two ways.

Option 1: Through the City of Chula Vista, by paying the City's Sewer Capacity Fee of \$3,478 per Equivalent Dwelling Unit (EDU). 1 EDU = 265 gallons per day

Option 2: Through the purchase of excess capacity from the City of San Diego, or one of the other Metro Participating Agencies (PAs). There is no formal inquiry

process but we believe the acquisition process would be similar to what was done in 1997 to acquire the initial 0.1 mgd.

Q2. Establish the cost for the additional 100,000 gallons per day of additional sewer capacity.

R2A. Sewer Capacity Fees

Option 1: Currently, the City's Sewer Capacity Fee is \$3,478/EDU. The additional 100,000 gpd represents 377.36 EDUs. Therefore, the total Sewer Capacity Fee that would be required for this new facility would be **\$1,312,452.83**.

Option 2: There is no set price at this time for Sewer Capacity Rights and capacity negotiations would be unique to each PA. Therefore, we are unable to estimate how much it could cost your company to acquire the additional capacity rights from one of the other PAs.

R2B. Required Infrastructure Improvements

Based on our preliminary review of this project, there does not seem to be a need to upgrade adjacent facilities as a result of implementing this option in the near term under current conditions. However, if significant development occurs prior to your submittal of plans for this project (or beginning your permitting process), we will have to re-evaluate this determination. The impacts resulting from your project will be determined based on the flows in the system at that time.

Q3. Identify the physical location and configuration for the SBEF sewer interconnect.

R3. See attached Exhibit 3

Q4. Obtain "will serve" letter that secures a total of 200,000 gallons per day of sewer capacity for the SBEF.

R4. See attached Exhibit 4.

Should you have any questions or need additional clarification regarding this matter, please contact Anthony Chukwudolue, Senior Civil Engineer, Wastewater Engineering at (619) 476-5368.



Leah Browder
Acting Director of Engineering

Exhibits

Cc: Laurie Madigan, Assistant City Manager
Silvester Evetovich, Principal Civil Engineer, Land Development

COUNCIL AGENDA STATEMENTItem 8Meeting Date 5/27/97**ITEM TITLE:**

Resolution **18677** Approving the seventh Amendment to Sewage Disposal Agreement of 1960 between the City of San Diego and The City of Chula Vista transferring 0.14 million gallons per day of sewage treatment capacity from the City of National City to the City of Chula Vista, transferring funds and appropriating funds.

SUBMITTED BY: Director of Public Works *W***REVIEWED BY:** City Manager *J*(4/5ths Vote: Yes X No)

In December 1996, Council approved Resolution 18535 which approved an Agreement with the City of National City to purchase Sewage Capacity up to a total amount of 0.14 million gallons per day (MGD). This capacity was for the use of SDG&E (0.1 mgd) to dispose of wastewater from their power plant that is currently discharging into the Bay. There was also the ability for Chula Vista to purchase up to 0.04 mgd capacity for the users of the MCA - Water Park project in the Otay Valley. Those two projects will discharge into a City of San Diego line in the Otay Valley rather than a Chula Vista line, however, the Treatment Capacity in the Metro System is the responsibility of Chula Vista.

This purchase of Capacity from National City requires approval from the City of San Diego and an amendment to the 1960 Sewage Disposal Agreement. The City of San Diego has approved this agreement and the City of National City will be approving a similar agreement with San Diego.

RECOMMENDATION:

That Council approve the Resolution approving the seventh Amendment to the Sewage Disposal Agreement of 1960 and transferring \$170,000 from the Trunk Sewer Capital Reserve Fund (222) to Sewer Service Fund (225) and appropriating \$170,000 from Fund 225 and authorizing payment to National City.

BOARDS/COMMISSIONS RECOMMENDATION: N.A.**DISCUSSION:**

On December 17, 1996 Council approved Resolution 18535 which approved the purchase of Metro Sewage capacity from the City of National City for the use of SDG&E, Whitewater Water Park and the MCA project. Capacity Transfers between Metro Agencies are accomplished by an amendment to the 1960 Sewage Disposal Agreement with the City of San Diego. This Resolution approves the agreement between Chula Vista and San Diego for the capacity transfer.

The Agreement with National City also provided the option to purchase up to an additional 40,000 gallons per day (0.04 mgd) if paid for by June 30, 1997. Whitewater Water Park has paid the fee but MCA has not yet paid. Staff is attempting to get the funds from MCA so that only one more amendment is required with San Diego. It is staff's recommendation to purchase the total 0.14 MGD capacity at this time even if MCA doesn't pay their amount by June 30, 1997. If MCA doesn't take advantage of the National City price, then that is extra capacity that Chula Vista can have available for our developers at retail rates. However, if the purchase isn't made by June 30, 1997 for MCA, National City may not hold their price and capacity offer beyond June 30. This could result in the City not being able to comply with Resolution #18535 which gave MCA a lower sewer capacity price and may result in MCA withdrawing from the Project.

The enclosed agreement will increase Chula Vista's capacity rights in the Metro Sewer System by 0.14 mgd to a total of 19.34 mgd. Chula Vista is currently flowing at approximately 12 mgd.

Please note that the Agreement with San Diego is for 0.100 MGD and not the 0.14 MGD as stated in this resolution. San Diego staff has indicated that this minor amount can be corrected without the need for an additional Agreement. However, if it turns out that an additional agreement with San Diego is needed to transfer 0.04 MGD, this resolution will authorize the Mayor to sign an additional agreement without the need to return to Council.

FISCAL IMPACT:

The total cost of the purchase from National City is \$595,000. SDG&E and Whitewater Water Park have already paid \$503,200. The \$425,000 from SDG&E has already been paid to National City. Whitewater has paid \$78,200 which will be put into Fund 222. This resolution will authorize a transfer from Fund 222 to Fund 225 \$170,000. The resolution will also appropriate that amount from Fund 225 to account 225-2250-5203 from which payment will be made to National City. MCA is expected to purchase most of the remaining capacity. Any amount that they do not purchase, will be added to the capacity that we sell to Chula Vista developers at retail rates. There are sufficient monies in Fund 222 to cover this cost.

Attachments: A - Agreement
 B - Council Report dated 12/17/96 **NOT SCANNED**
 C - Resolution No. 18535 **NOT SCANNED**

(0790-65-KY-060-7)

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May 22, 1997 (3:15pm)

RESOLUTION OF THE CITY COUNCIL OF THE CITY OF CHULA VISTA APPROVING THE SEVENTH AMENDMENT TO SEWAGE DISPOSAL AGREEMENT OF 1960 BETWEEN THE CITY OF SAN DIEGO AND THE CITY OF CHULA VISTA TRANSFERRING 0.14 MILLION GALLONS PER DAY OF SEWAGE TREATMENT CAPACITY FROM THE CITY OF NATIONAL CITY TO THE CITY OF CHULA VISTA TRANSFERRING FUNDS AND APROPRIATING FUNDS

WHEREAS, in December 1996, Council approved Resolution 18535 which approved an Agreement with the City of National City to purchase Sewage Capacity up to a total amount of 0.14 million gallons per day (MGD); and

WHEREAS, this capacity was for the use of SDG&E (0.1 mgd) to dispose of wastewater from their power plant that is currently discharging into the Bay; and

WHEREAS, there was also the ability for Chula Vista to purchase up to 0.04 mgd capacity for the use of the MCA - Water Park project in the Otay Valley; and

WHEREAS, these two projects will discharge into a City of San Diego line in the Otay Valley rather than a Chula Vista line, however, the Treatment Capacity in the Metro System is the responsibility of Chula Vista; and

WHEREAS, the purchase of capacity from National City requires approval from the City of San Diego and an amendment to the 1960 Sewage Disposal Agreement.

NOW, THEREFORE, BE IT RESOLVED the City Council of the City of Chula Vista does hereby approve the Seventh Amendment to Sewage Disposal Agreement between the City of San Diego and the City of Chula Vista transferring 0.14 million gallons per day of sewage treatment capacity from the City of National City to the City of Chula Vista, a copy of which is on file in the office of the City Clerk as Document No._____.


BE IT FURTHER RESOLVED that the Mayor of the City of Chula Vista is hereby authorized and directed to execute said Seventh Amendment for and on behalf of the City of Chula Vista.

BE IT FURTHER RESOLVED that the sum of \$170,000 is hereby transferred from the Trunk Sewer Capital Reserve Fund (222) to Sewer Service Fund (225) and appropriating \$170,000 from Fund 225 and authorizing payment to National City.

Presented by

Approved as to form by

John P. Lippitt, Director of
Public Works



John M. Kaheny, City Attorney

SEVENTH AMENDMENT TO SEWAGE DISPOSAL AGREEMENT
OF 1960 BETWEEN THE CITY OF SAN DIEGO
AND THE CITY OF CHULA VISTA

DRAFT

This Seventh Amendment to the Sewage Disposal Agreement of 1960 is made by and between the CITY OF SAN DIEGO (hereinafter sometimes referred to as "CITY") and the CITY OF CHULA VISTA (hereinafter sometimes referred to as "Participating Agency").

RECITALS

WHEREAS, on February 8, 1961, the City of Chula Vista, under and pursuant to the authorization contained in Resolution No. 2559 of the Resolutions of the City Council of the City of Chula Vista, executed a Sewage Disposal Agreement of 1960 with the City of San Diego and, pursuant to Resolution No. 2652-A, executed a Supplement to the Sewage Disposal Agreement of 1960; and

WHEREAS, the City of San Diego, on June 1, 1961, under and pursuant to the authorization contained in Resolution No. 164478 of the Resolutions of the City Council of the City of San Diego, executed said Sewage Disposal Agreement of 1960 with the City of Chula Vista and, pursuant to Resolution No. 167436, executed a Supplement to the Sewage Disposal Agreement of 1960; and

WHEREAS, the original of said Sewage Disposal Agreement of 1960 and Supplement to the Sewage Disposal Agreement of 1960 are on file in the office of the City Clerk as Document Nos. 625435 and 630491 respectively; and

WHEREAS, the City of San Diego and the City of Chula Vista have executed the following Amendments to the Sewage Disposal Agreement of 1960:

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<u>Amendment</u>	<u>Date</u>	<u>City of San Diego Document Number</u>	<u>City of Chula Vista Resolution Number</u>
First	August 1, 1962	657587	3022
Second	December 1, 1962	677599	3197
Third	June 4, 1979	RR-251701	9841
Fourth	January 9, 1984	RR-259928	11488
Fifth	October 1, 1984	RR-261646	11755
Sixth	July 29, 1985	RR-2635754-3	12001

WHEREAS, since the execution of the agreement, supplement and amendments thereto, the City of Chula Vista has entered into an agreement with the City of National City whereby the City of National City desires to transfer to the City of Chula Vista 0.10 million gallons per day of the capacity which it has leased from the City of San Diego, and the City of Chula Vista desires to assume the obligations for the payment of money in connection with the 0.10 million gallons per day capacity rights which will be transferred to it; and

WHEREAS, in order to accomplish said transfer, it is necessary to relieve the City of National City of that portion of its obligations under the Sewage Disposal Agreement of 1960 relating to the transfer of the 0.10 million gallons per day capacity to the City of Chula Vista; and

WHEREAS, the City of San Diego and the City of Chula Vista are authorized to contract with each other for the joint exercise of any common power under Article 1, Chapter 5, Division 7, Section 6500 et seq. of the Government Code of the State of California;

NOW, THEREFORE, the City of San Diego and the City of Chula Vista for and in consideration of the transfer of the mutual covenants and agreements hereinafter stated and the performance thereof, and in consideration of the transfer by the City of National City to the City of Chula Vista of the capacity hereinafter mentioned and the assumption by the City of Chula Vista of that portion of the payments and obligations relating to the said 0.10 million gallons per day capacity and, for other valuable and adequate consideration, do promise and agree, for and on behalf of their successors and assigns, as follows:

Section 1. Increase of Capacity Service

The provisions of the Sewage Disposal Agreement of 1960 by and between the City and the City of Chula Vista shall be altered and amended by increasing the 19.20 million gallons per day average flow by the amount of 0.10 million gallons per day; that after such increase the obligations of the City and the Participating Agency shall relate to an average flow not to exceed 19.30 million gallons per day, unless increased or decreased by other provisions of the Sewage Disposal Agreement of 1960 as amended.

The provisions of Section 21, "Permitted Flow," of the Sewage Disposal Agreement of 1960 shall be amended to provide that the City of Chula Vista shall have the right to discharge peak flow into the Metropolitan Sewerage System not to exceed 45.0 cubic feet per second, and the City shall have the obligation to receive such peak flow from the Participating Agency.

Section 2. Increase of Annual Service Charge for Capacity

The annual service charge payable by the City of Chula Vista to the City for each fiscal year shall be computed as determined in Section 8 and Section 22 of the Sewage Disposal Agreement of 1960 taking into consideration the increase from 19.20 million gallons per day average flow to 19.30 million gallons per day average flow and shall be determined as set forth in the document entitled "Revised Capacity Service Charges for Transfer of Sewage Capacity from the City of National City to the City of Chula Vista" attached hereto and by this reference made a part hereof as Exhibit A.

Section 3. Adjustment of Capacity Service Between Participating Agencies

The provisions of this Seventh Amendment to Sewage Disposal Agreement of 1960 are executed pursuant to the provisions of Section 22, entitled "Adjustments of Capacity Service Between Participating Agencies," of the Sewage Disposal Agreement of 1960. The City finds and determines that the transfer of 0.10 million gallons per day average flow will not unbalance the Metropolitan Sewerage System to the detriment of the City or other Participating Agencies.

The transfer of the capacity service from the City of National City to the City of Chula Vista and the adjustment of the obligations of the Participating Agency in relation to such transfer shall be effective as of _____, 1997.

Section 4. Effect of Adjustment

The provisions of the Sewage Disposal Agreement of 1960 and the Supplement to the Sewage Disposal Agreement of 1960 and Amendments by and between the City and the Participating Agency shall be and remain unaffected by the provisions of this

Seventh Amendment, except as such are specifically amended herein.

Section 5. Date of Amendment

The date of this Seventh Amendment is _____, 1997.

IN WITNESS WHEREOF, the City of Chula Vista has caused this instrument to be executed by its respective officials, pursuant to Resolution _____, adopted by its City Council, and this instrument is executed by the City of San Diego, acting by and through its City Manager, pursuant to Resolution 288479 of the City; authorizing such execution.

THE CITY OF SAN DIEGO

By _____

THE CITY OF CHULA VISTA

By _____

I HEREBY APPROVE the form and legality of the foregoing Third Amendment to Agreement on this _____ day of _____, 1997.

THE CITY OF SAN DIEGO

CASEY G. GWINN, City Attorney

By _____

THE CITY OF CHULA VISTA

By _____

8-8

288479



DEPARTMENT OF ENGINEERING

EXHIBIT 2

March 27, 2006
File No. 0735-90-PI-001

Duke Energy North America
South Bay Power Plant
990 Bay Boulevard
Chula Vista, CA 91911-1651

Attention: Joe Otahal, Manager Electric Modernization South Bay Power Plant

RE: Sewer Service to the proposed Dry Cooled South Bay Energy Facility

The proposed Dry Cooled South Bay Facility will receive sewer service via an 8-inch main located in Bay Boulevard, upon approval of a new Industrial User Discharge Permit. The estimated 100,000 gallons per day of sewer capacity required for this facility has already been secured based on your existing capacity agreement with the City. It was also permitted under the Industrial Discharge User Permit 13-0279 for the South Bay Power Plant.

Furthermore, based on our preliminary review of this project, there will not be a need to upgrade adjacent facilities as a result of this project at this time. If you have any questions, please contact Anthony Chukwudolue, Senior Civil Engineer, at (619) 476-5368.

Leah Browder
Acting Director of Engineering

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For written replies, respond to:

- ☐ 276 FOURTH AVENUE / CHULA VISTA, CALIFORNIA 91910-2631 / (619) 691-5021
- ☐ 1800 MAXWELL ROAD / CHULA VISTA, CALIFORNIA 91911-6158 / (619) 691-5021



DEPARTMENT OF ENGINEERING

EXHIBIT 4

March 27, 2006
File No. 0735-90-PI-001

Duke Energy North America
South Bay Power Plant
990 Bay Boulevard
Chula Vista, CA 91911-1651

Attention: Joe Otahal, Manager Electric Modernization South Bay Power Plant

RE: Sewer Service to the proposed Wet Cooled South Bay Energy Facility

The proposed Wet Cooled South Bay Facility will receive sewer service via an 8-inch main located in Bay Boulevard, upon approval of a new Industrial User Discharge Permit and payment of applicable sewer capacity fees. It is currently estimated that the proposed plant will generate approximately 200,000 gallons per day (gpd) of sewage. Since Duke Energy has already acquired 100,000 gpd of sewer capacity rights for the existing plant, Duke will only be required to secure additional 100,000 gpd of capacity rights for this new facility. The additional capacity can be secured either through the payment of the City's Sewer Capacity Fee (calculated on an Equivalent Dwelling Unit/EDU basis) or through a purchase/transfer agreement with one of the other participating agencies in the Metro system. The process would be similar to what was done in 1997 to acquire the capacity rights for the existing plant.

Furthermore, based on our preliminary review of this project, there does not seem to be a need to upgrade adjacent facilities (under current conditions) as a result of this project. However, if significant development occurs prior to your submittal of plans for this project (or beginning your permitting process), we will have to re-evaluate this determination. The impacts resulting from your project will be determined based on the flows in the system at that time.

If you have any questions, please contact Anthony Chukwudolue, Senior Civil Engineer, at (619) 476-5368.

Leah Browder

Leah Browder
Acting Director of Engineering

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For written replies, respond to:

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- ☐ 1800 MAXWELL ROAD / CHULA VISTA, CALIFORNIA 91911-6158 / (619) 691-5021